STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2021/2022

ULS3612 – LAW OF SUCCESSION

(All Sections / Groups)

22 APRIL 2022

Reading Time : 9.00 a.m. – 9.15 a.m.
(15 Minutes)
Answering Time: 9.15 a.m. – 12.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 5 pages with 4 Questions only.

3. This paper consists of two parts. **PART A**: Answer only **ONE QUESTION**. **PART B**: Answer **ALL QUESTIONS**. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are only allowed to bring in **CLEAN AND ORIGINAL COPY** of the following statutes into the exam venue:
   i. Wills Act 1959
   ii. Distributions (Amendment) Act 1997
   iii. Probate & Administration Act 1959
   iv. Small Estate (Distribution) Act 1955

"Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

PART A: ANSWER ONE (1) QUESTION ONLY.

Mr. Albert was a very successful businessman in Johor and started as an insurance man. Later he ran his insurance agency as the District Manager of ABC. He owned numerous landed properties and houses in Johor. Mr. Albert was married twice and had three children from the first marriage. Mr. Albert has no children from the second marriage and adopted a son.

Mr. Albert was hospitalised in 2018 and he was diagnosed with Parkinson's and was not aware that he had dementia. Mr. Albert met with his lawyer, Mr. Zack, and told him his sickness and informed his intention to create a will. Mr. Zack advises Mr. Albert that there is a need to call a doctor to examine his health before executing his will. Dr. Suhana confirmed that Mr. Albert is able to understand and make his own decision. Mr. Albert then executed his will on 1 April 2020. Mr. Albert appointed Mike Lyon, his adopted son, to be the estate's executor.

After the execution of the will, he wants to make some amendments and wants to replace one of the beneficiaries and change it to his nurse, Sherine. He intends to give a car and a motorcycle to his nurse, who has cared for him for two years. He only put a cross on the sentence and wrote on the side of the sentence, "Sherine". Mr. Albert signed at the right side of the sentence without the presence of the witnesses.

The following are some of the contents of the will executed by Mr. Albert:

1. All landed properties and houses were to be equally divided to his children and his wife;
2. All current accounts in the Bank to my gardener and housekeeper, Mr. Chong.
3. All his shares in his company to his business partner, Mr. Tom.
4. Donation of RM100,000.00 to Parkinson's Foundation.
5. All other residues will be distributed according to intestacy rules.

Sophia, Mr. Albert's wife, consulted you on the distribution of Mr. Albert's estate by presenting the following facts:

1. Mr Albert's daughter, Merissa, predeceased Mr Albert and left her husband Mr Rock, and a son.
2. Mr Roy, the nominee of Mr Albert's Kumpulan Wang Simpanan Pekerja (KWSP) and Amanah Saham Berhad (ASB), died during the executor's lifetime.
3. Mike Lyon refuses to manage the will because he just received a promotion and needs to move to London if he accepts the offer.
4. Lily, Mr Albert's daughter, converted to Islam.
5. Sara, his daughter from his first marriage, questions the will's validity.

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Based on the fact, answer either QUESTION 1A OR QUESTION 1B

QUESTION 1A

(a) Advise Sofia on the validity of Mr. Albert's will.

(15 marks)

(b) Distribute Mr. Albert's estate accordingly.

(10 marks)

(Total: 25 Marks)

OR

QUESTION 1B

If the following situation occurs:

(a) Ms. Sofia came to Mr. Albert and she is outraged and disagrees with the content of the will. Mr. Albert bequeaths all his savings and current account to Mr. Chong, their gardener. Ms. Sofia forced Mr. Albert to revoke the existing will and create a new will that bequeaths everything to her and her son only. Mr. Albert reluctantly tore the original will and kept the certified true copy of the will with his lawyer.

Advise Mr. Albert on the validity of the will due to the revocation.

(9 marks)

(b) Mr. Albert has the intention to make a codicil to revive the will that he has revoked earlier. Explain to him the possible method to revive the will with reference to decided cases.

(7 marks)

(c) Mr. Albert executed his will in the presence of his lawyer, Mr. Zack, who then attested to his will. A day after the execution of the will, Mr. Albert, with his lawyer present, requested his nurse, Ms. Sherine, to attest her signature on the will. The execution and attestation were made at the envelope of the will.

Illustrate the validity of the will due to the formalities with reference to Wills Act 1959.

(9 marks)

(Total : 25 marks)

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PART B : ANSWER ALL QUESTIONS

QUESTION 2

Mr. Megah was a successful businessman. He owned several start-ups developing software and technology devices. Upon his marriage with his wife, Cantik (aged 53), he was blessed with two sons, Rizal (aged 25) and Ramli (aged 17), and two daughters, Rai (aged 27) and Dee (aged 6)

On 20th August 2010, Megah was involved in a road accident and died on the scene. Megah was also survived by his mother, Mama, two brothers (Mat and Mac), and two sisters (Mun and Min). Mac lived in the United Kingdom and was no longer a Muslim.

When Megah was still alive, he had always mentioned that when he dies he wanted all his estate to be distributed equally between his children but not to Rizal whom he had disowned after he ran away and got married in Thailand. He clearly said that Rizal should not get anything from his property.

Megah died leaving a debt to his friend, Melet amounted to RM600,000. He also left a wasiyyah bequeathing a quarter of his estate to Dee and Cantik.

Megah left the following property:

(a) Savings in Tiger Bank amounting to RM400,000

(b) RM156,879 in the Employee's Provident Fund for which his wife was named as the nominee

(c) A Toyota Alphard valued at RM300,000 of which he still has unsettled loan amounting to RM150,000

(d) A semi-detached house in Damansara registered in the name of Rai worth RM500,000

(e) Money in Amanah Saham Nasional Berhad amounting to RM1,000,000

(f) A Louis Vuitton purse valued at RM5000 and cash amounting to RM1000.

After Megah's funeral, an amount of RM50,000 have been collected being contributions from friends and relatives and was given to Cantik. Cantik used RM5000 from the money to pay for funeral costs. Some of Megah's relatives said that the money belonged to Megah's estate and should not be taken. Megah's relatives also informed Cantik that they feel very sympathetic to the sudden death of Megah and told Cantik that Megah's wasiyyah should be honoured. Rizal however felt that the wasiyyah is unfair and objected to it.

Continued…

(a) Determine the status of the wasiyyah and the entitlement of each of the heirs of the late Megah.

(15 marks)

(b) Distribute his estate accordingly.

(10 marks)

(Total: 25 marks)

QUESTION 3

(a) Section 9 of Wills Act 1959 states: -

" If any person attests the execution of any will to whom or to whose wife or husband any beneficial devise, legacy, estate, interest, gift or appointment of or affecting any property, other than and except charges and directions for the payment of any debt or debts, shall be thereby given or made, such device, legacy, estate, interest, gift or appointment shall, so far only as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person or wife or husband, be utterly null and void, and such person so attesting shall be admitted as a witness to prove the execution or to prove the validity or invalidity thereof, notwithstanding such devise, legacy, interest, gift of appointment mentioned in such will."

With the reference of relevant authorities, identify the circumstances that may fail the gift in a will.

(15 marks)

(b) Small Estate (Distribution) Act 1955 (Act 98) deals with the distribution of "small estate" of deceased persons and with matters incidental thereto.

Based on the above statement, illustrate the procedure for the Small Estate in Malaysia.

(10 marks)

(Total : 25 marks)

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QUESTION 4

Ms. Nite created a will in January 2020 with the assistance of her best friend, Ms. Pink, a solicitor. Ms. Nite's will stated that her brother and her eldest sister, Mr. Day, and Ms. Summer will become her executors to manage her properties accordingly.

Ms. Nite died in November last year, due to the Covid-19 virus. After the grant of probate granted by the court, Mr. Day refuses to manage the will since he is migrating to Australia. While Ms. Summer only accepted half of the duties and refuses to deal with the immovable properties.

(a) Evaluate the role of Mr. Day and Ms. Summer in Ms. Nite's will.

(17 marks)

(b) In the event both of the executors renounce their office of executorship, Ms. Pink wishes to appoint herself as an executrix and to manage the property. Advise her accordingly.

(8 marks)
(Total: 25 marks)

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